

Remarks/Arguments

The Office Action mailed October 8, 2009 has been reviewed and carefully considered. No new matter has been added.

Claims 1, 7, 16, 24, 28, and 32 have been amended. Claims 23, 25, 27, 29, 31, and 33 have been cancelled without prejudice. Claims 1, 6-9, 16, and 18-22, 24, 26, 28, 30, 32, and 34-35 are pending in this application. Reconsideration of the above-identified application, in view of the above amendments and the following remarks, is respectfully requested.

Claims 25, 29, and 33 stand rejected under 35 U.S.C. 112, second paragraph. As noted above, Claims 25, 29, and 33 have been cancelled. Thus, withdrawal of the rejection is respectfully requested.

Claims 1, 6, 7, 26, and 30 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2005/0235360 to Pearson (hereinafter “Pearson”). Claims 8, 9, 20, 21, and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pearson in view of U.S. Patent Application Publication No. 2002/0133586 to Shanklin et al. (hereinafter “Shanklin”). Claims 16, 19, and 34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pearson in view of U.S.

Patent Application Publication No. 2002/0062450 to Carlson et al. (hereinafter "Carlson"). Claims 18 and 31-33 stand rejected 35 U.S.C. §103(a) as being unpatentable over Pearson and Carlson as applied to Claim 16, and further in view of U.S. Patent Application Publication 2002/0080784 to Krumel (hereinafter "Krumel"). Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Pearson and Carlson as applied to Claim 16, and further in view of Shanklin. Claims 23-25 and 27-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pearson in view of Krumel and in view of Shanklin.

As noted above, Claims 23, 25, 27, 29, 31, and 33 have been cancelled.

The independent Claims currently pending are Claims 1, 7, and 16.

It is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest the following limitations now recited in amended Claim 1:

wherein each of the plurality of user discernable indicators except a particular one is associated with the different one of the plurality of classes, and the method further comprises:

associating the particular one of the plurality of user discernable indicators with an affirmative status that filtering is being

contemporaneously performed for any of the packets that violate at least one of the rules; and

in the case of the rule of at least a first class from among the plurality of classes being violated and a number of packets violating the rule of at least the first class exceeding a pre-specified threshold, providing a user discernable notification of the filtering being contemporaneously performed by triggering, concurrently with the triggering of the respective one of the plurality of user discernable indicators, the particular one of the plurality of user discernable indicators associated with the affirmative status that the filtering is being contemporaneously performed.

Moreover, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest the following limitations now recited in amended Claim 7:

wherein each of the plurality of user discernable indicators except a particular one is associated with the different one of the plurality of classes, and the method further comprises:

associating the particular one of the plurality of user discernable indicators with an affirmative status that filtering is being contemporaneously performed for any of the packets that violate at least one of the rules; and

in the case of the rule of at least a first class from among the plurality of classes being violated and a number of packets violating the rule of at least the first class exceeding a pre-specified threshold, providing a user discernable notification of the filtering being

contemporaneously performed by triggering, concurrently with the triggering of the respective one of the plurality of user discernable indicators, the particular one of the plurality of user discernable indicators associated with the affirmative status that the filtering is being contemporaneously performed.

Further, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest the following limitations now recited in amended Claim 16:

wherein the firewall program is executable by said controller to cause filtering any of the packets that at least one of the rules, and wherein each of the plurality of user discernable indicators other than a particular one is respectively associated with the different ones of the plurality of classes, the particular one of the plurality of user discernable indicators being associated with an affirmative status that filtering is being contemporaneously performed, and wherein the particular one of the plurality of user discernable indicators is triggered, concurrently with the triggering of the respective one of the plurality of user discernable indicators, if the one or more of the rules is violated, the filtering is performed by the firewall program, and a number of the packets that violate the one or more rules exceeds a pre-specified threshold.

It is to be noted that each of Claims 1, 7, and 16 have been amended to now recite that each of the plurality of user discernable indicators are visually discernable. Moreover, it is also to be noted that Claims 1, 7, and 16 have been amended to also now

include the limitations of cancelled Claims 23, 27, and 31, respectively. Accordingly, it is further noted that the Examiner stated the following on pages 12-13 of the pending Office Action in support of his rejection of Claim 23, while explicitly relying upon the same for his rejections of Claims 27 and 31:

As per claims 23, Examiner incorporates the rationale for combining the indicator of filtering as taught by Krumel and supplied in the rejection of claim 18. Examiner also incorporates the rationale for combining the thresholds as taught by Shanklin and supplied in the rejection of claim 8. Pearson is silent in explicitly teaching the combination of indicators and function as described in claim 23. Having various indicators to show that filtering is done is clearly taught by Krumel. Krumel also teaches that LEDs can differentiate between heavy attacks and irregular attacks (0016). This notion meshes well with Shanklin's teachings. A heavy attack must be defined by some inherent threshold. Examiner finds that in view of these three references that associating a certain event to certain LEDs and its underlying meaning as recited in claim 223 is simply a design choice. The claim would have been obvious because one of ordinary skill in the art could have envisioned and used LEDs to indicate many types of scenarios including those explicitly described in claim 23 to provide the user with feedback of what the cable modem is doing. Obviously the more LEDs one uses, the more information can be provided to the user. Krumel explicitly teaches many indicator scenarios. Examiner finds no particular use of the indicators of claim 23 to be non-obvious given the teachings of Krumel, Shanklin, and Pearson.

The Applicants respectfully disagree with the Examiner's position.

For example, paragraph [0116] of Krumel discloses the following in its entirety:

In the preferred embodiment, parallel to server mode button 200 on the external side of the case is alert button 204, which contains alert LED 206. Alert LED 206 is coupled to alarm controller 53 (as illustrated in FIG. 3), which preferably is implemented as a part of PLD 162 (as illustrated in FIG. 9). Alert LED 206 may contain a single or multi-colored LED, which, when illuminated, indicates the data protection system is under attack and is rejecting suspect packets. The data protection system preferably registers the frequency of attacks and sends signals to alert LED 206 based on such information. In a preferred embodiment, alert LED 206 may contain a LED (e.g., red), which remains consistently illuminated during irregular attacks or blinks at regular intervals under heavy attack. In another preferred embodiment, alert LED 206 may contain a multi-colored LED, which similarly indicates when the system is under attack and is rejecting packets. With a multi-colored LED, the increase in frequency or intervals of attacks may be indicated by a change in color: for example, green (indicating no registered attacks by suspect packets) to yellow (indicating a few irregular attacks) to red (indicating more frequent attacks) to blinking red (indicating a heavy attack). The alert alarm may be reset by depressing alert button 204.

As is evident, paragraph [0116] of Krumel is simply directed to the active use (triggering) of only one indicator at any given time. For example, the preceding portion of Krumel discloses "LED 206 may contain a single or multi-colored LED, which, when

illuminated, indicates the data protection system is under attack and is rejecting suspect packets.” However, that same LED 206 may remain consistently illuminated during irregular attacks or blinks under heavy attack as further disclosed therein. Moreover, in the case of a multi-colored LED (noting that Krumel explicitly uses the singular form of the word LED when describing his “multi-colored LED”, and also noting that Krumel uses the words “change in color” versus “change in LED”), “the increase in frequency or intervals of attacks may be indicated by a change in color” (emphasis added). Hence, as per paragraph [0116] of Krumel, the same LED is always used.

The Examiner also cited paragraph [0117] of Krumel, which is reproduced in its entirety as follows:

In a preferred embodiment, speaker 55 (or some form of audio transducer) may be coupled to alarm controller 53 to also indicate the presence or severity of attacks (as described in connection with FIG. 3). For example, when the data protection system is under heavy attack and alert LED 206 is blinking (e.g., red), an alarm signal may be transmitted to speaker 55 to emit audio information to indicate a suspected severe attack or emergency. Alarm-type information may also be coupled to the internal network (such as via a UDP packet, as described elsewhere herein), and thus transmit alarm information over the network to a software interface on the desktop. In other embodiments of the data protection system, an array of different features, including buttons, LEDs, alarms, and graphical user interfaces, may be utilized to indicate the class, frequency and severity of attacks on the system.

While paragraph [0117] of Krumel mentions the concurrent use of a speaker 55 with the triggering of LED 206, a speaker is not visually discernable in contrast to the indicators explicitly recited in Claims 1, 7, and 16. Advantages of using two visually discernable indicators (i.e., the recited “respective” and “particular” indicators of Claims 1, 7, and 16) include but are not limited to avoiding the need for the integration of another type of indicator and the avoidable (e.g., if a visually discernable indicator is used as claimed) disruption of others proximate to the user when a speaker alarm is triggered. Moreover, in any event, despite the Examiner asserting that “Krumel explicitly teaches many indicator scenarios”, it is clear that Krumel does not disclose the specific indicator “scenario” explicitly recited in Claims 1, 7, and 16.

Hence, Krumel does not disclose the above reproduced limitations of Claims 1, 7, and 16 for at least the reasons set forth above. Moreover, it is respectfully asserted that none of the remaining references cure the deficiencies of Krumel, and are silent with respect to the above reproduced limitations of Claims 1, 7, and 16.

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103. Section 2143.03 of the MPEP requires the “consideration” of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely “consider” each and every feature for this claim. Instead, the asserted

combination of the patents must also teach or suggest *each and every claim feature*. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeal and Interferences has recently confirmed, a proper obviousness determination requires that an Examiner make "a searching comparison of the claimed invention - *including all its limitations* - with the teaching of the prior art." See *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Claims 6, 20, 24, 26, and 35 directly depend from Claim 1, and thus include all the limitations of Claim 1. Claims 8, 9, 21, 28, and 30 directly depend from Claim 7, and thus include all the limitations of Claim 7. Claims 18, 19, 22, 32, and 34 directly depend from Claim 16, and thus include all the limitations of Claim 16. Accordingly, Claims 6, 20, 24, 26, and 35 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 1, Claims 8, 9, 21, 28, and 30 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 7, and Claims 18, 19, 22, 32, and 34 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 16.

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Thus, reconsideration of the above rejections is respectfully requested.

In view of the foregoing, Applicants respectfully request that the rejections of the claims set forth in the Office Action of October 8, 2009 be withdrawn and that the pending claims be allowed.

It is believed that no further additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they are authorized and may be charged to applicants' Deposit Account No. 07-0832.

Respectfully submitted,

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